

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

THOMAS E FRALEY, JR.,

Complainant,

vs.

CITY OF HENDERSON; HENDERSON
POLICE OFFICER'S ASSOCIATION,

Respondents.

ITEM NO. 547B

CASE NO. A1-045756

ORDER

For Complainant: Richard I. Dreitzer, Esq.

For Respondents: David A. Hintzman, Esq.
Henderson City Attorney's Office

Thomas D. Beatty, Esq.

On January 24, 2003, a complaint was filed in this matter against the City of Henderson ("City"); and on February 10, 2003, Complainant Thomas Fraley ("Fraley") filed an Amended Complaint against the City and the Henderson Police Officers' Association ("Association").

Answers to the Amended Complaint were filed by the Respondents. Thereafter this matter was set for hearing and the hearing lasted ten days. This Board rendered a Decision on April 2, 2004, in favor of Fraley and against the City and the Association. The Decision also included the award of fees and costs, and ordered that an accounting be submitted to the Board for approval. Fraley filed an accounting; and the City and the Association opposed the same. Fraley also filed a reply along with a request for the submission of the same.

The Board deliberated on said accounting, and the oppositions thereto, on June 1 and 2, 2004, noticed in accordance with Nevada's Open Meeting Law. Based upon the Board's deliberations,

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1 IT IS HEREBY ORDERED that Fraley is awarded the sum of \$68,000.00 as fees. This
2 amount was reduced from the requested amount based on the Board's thorough review of the
3 accounting over two days of deliberations during the meetings of the Board. The Board is
4 comprised of two attorneys familiar with trial work and the time necessary in preparing cases for
5 trial. Such Board members heard the 10 days of hearing in this matter and all other motions
6 brought forth in this action, and carefully considered the various and numerous time entries. It
7 was also duly noted by the Board that the hourly rate is very reasonable in comparison with the
8 legal community in Las Vegas, Clark County, Nevada.

9 With respect to the oppositions filed, the Board finds that the accounting was not
10 untimely filed; that the amount awarded does not include any time spent on the District Court
11 matter nor the grievance(s); that this award of fees is not meant by way of punishment to the
12 Association but is a statutorily allowed award; that the amount should not be reduced based on
13 the "unclean hands" doctrine as that was clarified in a later order of the Board; that the fees are
14 not duplicates or redundant as it is customary to have a second-chair or paralegal or law clerk
15 assist in the preparation of cases for trial; that an attorney's signature on the document is
16 sufficient pursuant to NRCP 11 and that an affidavit is not necessary; that the time spent was
17 delineated in appropriate specificity for this Board's review; that the time spent by Fraley's
18 counsel and Mr. McCann appear reasonable and justified; and this Board takes due notice that
19 Fraley's counsel could have claimed additional taxable costs but elected not to do so, e.g.,
20 computerized legal research costs, postage, telephone, and facsimile transmission.

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1 IT IS FURTHER ORDERED that as the prevailing party, Fraley is entitled to
2 reimbursement of the costs in the amount of \$16,704.04, which amount does not include any
3 costs associated with the District Court matter.

4 DATED this 2nd day of June, 2004.

5 LOCAL GOVERNMENT EMPLOYEE-
6 MANAGEMENT RELATIONS BOARD

7 BY: 
8 JOHN E. DICKS, ESQ., Chairman

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10 BY: 
11 JANET TROST, ESQ., Vice-Chairman

12 Limited Concurring Opinion

13 I agree with the majority that attorney's fees and costs are appropriately awarded to
14 Complainant Fraley. I would have awarded an amount in the \$50,000 to \$58,000 range.

15 I agree with the award of \$16,704.04 as costs.

16 DATED this 2nd day of June, 2004.

17 LOCAL GOVERNMENT EMPLOYEE-
18 MANAGEMENT RELATIONS BOARD

19 BY: 
20 TAMARA E. BARENGO, Board Member
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